



2/14/2022

Final Considerations

Dear Committee Members,

Of the many underlying issues here, three stand out in my mind as best illustrating how unfair this process has been. Please allow me to now underscore these three issues. Please note also that I am still available to meet and answer any questions you may have about this investigation.

1. Burden of Proof.

CSU must prove clearly and convincingly that I “intentionally, knowingly, or recklessly” committed academic research misconduct. This is the only thing on the table here, and the burden is not on me to prove my innocence. However, neither the original committee nor the Provost have even addressed the issue of “intent,” except that the Provost claims it is irrelevant:

I do not know if these violations were committed knowingly or recklessly. I do not distinguish between these two states of mind in interpreting the actions of a tenured full professor who should be well informed about...

The Provost clearly admits that CSU has not proven intent, though this is exactly and only what is required. How can the next step be to recommend dismissal from the university?

2. Substantial Errors of Fact.

The Provost and Research VP made strong insinuations about my behavior that are highly prejudicial. These statements are highly prejudicial because they are simply and provably false. At our 1/28/22 meeting, for example, the Provost “opened” by citing her very paragraph containing 4 of 4 misstatements about me (her “opening” presumably also illustrates that she did not even read my reply to her, dated 1/25/22, wherein I distinctly rebutted all four of these statements).

Regarding the Provost’s paragraph, she references an email I sent to Teri Kocavar, albeit back on 4/25/2018. This was for my first ever TCP application, and I sent the email months before I ever submitted my second / next TCP application (which would have involved John). Ironically, as shown in the CSU Binder, I never even accessed these data, and so I never stored them anywhere, and so no children (nor adults, as of when we eventually accessed participant genotypes in 2019) were harmed. The Provost bats 0 for 4 here. How can an analysis this deficient justify revoking a full professor’s tenure (no matter what topic they research)?

3. Academic Research Misconduct versus Everything Else.

The only relevant issue here is whether I committed academic research misconduct regarding any, some, or all four of the charges in the original committee’s final report: (1) misrepresenting the data use, (2) publishing without permission, (3) failing to secure IRB approval, and (4) and engaging in “unauthorized research funding” (an invented term). All other issues are irrelevant to this investigation.

Consider, for example, the Provost's claim that my three-year NIH suspension sets a record for its length at NIH. This is anecdote and hearsay. More importantly, the information was certainly not contained in the original committee's final report, and so bringing it up in her Discipline Letter, and at our 1/28/22 meeting, is both improper and prejudicial.

Turning back to the four charges, I've argued elsewhere that the "IRB approval" charge is inane for several reasons. Here, though, it is squarely irrelevant to my investigation, as under federal regulations, alleged IRB violations do not constitute academic research misconduct (Reply to Provost). Moreover, the fourth charge ("unauthorized research funding") also does not get at academic research misconduct, as it is irrelevant to the "integrity of the research record" (Reply to Provost). Thus, CSU may be able to discipline me on points (3) and (4) for other policy reasons, but neither represents academic research misconduct, which must be the sole focus of the investigation here.

The remaining two charges, (1) and (2) above, regard NIH issues, which I have discussed at length elsewhere and in several places. In sum, burden of proof issues, together with the Provost's many misstatements, together with her reliance on information outside the (original) committee's four charges, so severely prejudice me that I implore you to dismiss this case with prejudice.

Bryan